

Carlisle Conservation Commission
April 29, 2010

Chair Peter Burn called the meeting to order at 7:30 p.m. in the Clark Room at the Carlisle Town Hall. Also present were Vice Chair Kelly Guarino and Commissioners Tom Brownrigg, Jen Bush, Tricia Smith and Diane Troppoli and Conservation Administrator Sylvia Willard.

Bills, General Agenda Items, New/Pending Business:

Cranberry Bog House– CPA Funding Request: Debbie Geltner of the Land Stewardship Committee provided the Commission with a summary of the CPA funding request presentation she and Warren Lyman had developed for Town Meeting on May 10, 2010 (Lyman was not in attendance due to an illness). She also distributed the brochure they had created for distribution at the Town Meeting as a means providing general background information on the history of the Bog House, why it is an important structure to the Town, and an overview of needed repairs. The Commission had some suggested modifications for the brochure.

Cranberry Bog House - 3rd Floor Lease Agreement: Guarino provided the Commission with an update on her status in revising the lease for the third floor apartment. The revised lease will address issues that have been identified with the most recent lease in terms of in-kind service requirements vs. rental income. A target date for discussing the draft document was set for July 1, 2010. Guarino also noted that the lease agreement for the Cranberry Bog will expire in 2015, at which time the Commission will likely combine the leases for all three floors with the bog itself.

Siltation Barrier clarification for DEP 125-0880: Willard had been contacted by the property owner subsequent to the issuance of a permit for tree removal requesting clarification on whether he would be required to install haybales in addition to the siltation barrier requirement contained in the OOCs. The Commission confirmed that haybales would not be required.

Funds Transfer Requests:

Willard distributed a draft memo for the Commission's review relative to requesting an increase in the annual allotment of funds from the **Foss Farm 53e ½ Account**. The request is being made because the annual limit of \$2,500 has proved to be insufficient this year due to the costs associated with the installation of two new water supply wells during 2009 followed by updating staking and a few new plots. *Brownrigg moved to submit a request to the Board of Selectmen to access \$500 in additional funds from the Commission's Foss Farm 53E1/2 Account in order to cover expenses associated with hand pump repairs and other maintenance requirements. Troppoli seconded and all attending voted in favor.*

*Troppoli moved submit a request to the Board of Selectmen for approval of a transfer from the **Wetlands Protection Act Intent Account** in the amount of \$6,047.40 in order to cover wages for the Administrator for the remaining six weeks of FY10, Smith seconded and all attending voted in favor.*

Executive Session Minutes Approval: *Guarino moved to accept the Executive Session minutes of January 8, 2009 and January 22, 2009, Troppoli seconded and all attending voted in favor. Smith moved to release the Executive Session minutes of January 8, 2009 and January 22, 2009, Bush seconded and all attending voted in favor.*

7:50 p.m. (DEP 125-0883) Notice of Intent, Continued Hearing

Applicant: Walter Hickman

Project Location: 249 Concord Road

Project Description: Construction of an addition, portions of a septic system and additional driveway pavement

Burn opened the Continued Hearing under the provisions of the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw. George Dimakarakos of Stamski and McNary had presented the Plan for the proposed work at the April 15, 2010 hearing, which was found to be acceptable by the Commission pending a review by DEP. DEP has now completed their review with no comments. *Guarino moved to close DEP #125-0883, Troppoli seconded and all attending voted in favor. Guarino moved to issue a Standard Order of Conditions, Brownrigg seconded and all attending voted in favor.*

8:00 p.m. (DEP 125-0881) Notice of Intent, Continued Hearing

Applicant: William O'Brien, Pinnacle Partners

Project Location: 142 Bedford Road

Project Description: Removal of an existing dwelling and driveway and construction of a proposed dwelling, soil absorption system and associated site work

Burn opened the Continued Hearing under the provisions of the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw. George Dimakarakos of Stamski and McNary stated that a previously issued permit for the project had expired and an identical Plan was subsequently resubmitted to both Conscom and the BOH. BOH has since approved the resubmittal contingent on minor revisions limiting the allowable number of bedrooms to two. With no further questions or comments, *Smith moved to close DEP #125-0881, Troppoli seconded and all attending voted in favor. Guarino moved to issue a Standard Order of Conditions with the Continuing Condition as required in the original OOCs prohibiting any yard area expansion beyond the fence line in order to limit yard activity so that vegetation beyond the fence is left undisturbed, Troppoli seconded and all attending voted in favor.*

8:15 p.m. (DEP 125-0884) Notice of Intent

Applicant: Wilkins Hill

Project Location: 60 Gormley Way

Project Description: Grading and utilities associated with the construction of a single family home

Burn opened the Hearing under the provisions of the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw. Brownrigg recused himself from the hearing, as he is an abutter to the property. George Dimakarakos of Stamski and McNary provided overview of Plan. Proposed work within the 100' Buffer Zone includes construction of a foundation drain outfall and grading associated with the construction of the dwelling. Proposed erosion control and limit of work details were found to be acceptable. Dimakarakos noted that the proposed Plan reflects a conceptual house box only. *Smith moved to close the hearing for DEP #125-0884, Guarino seconded and all attending voted in favor. Smith moved to issue a Standard Order of Conditions, Troppoli seconded and all attending voted in favor.*

8:30 p.m. DEP 125-0878) Notice of Intent, Continued Hearing

Applicant: Philip Giffie, Neighborhood of Affordable Housing, Inc, (NOAH)

Project Location: 273 South Street

Project Description: Residential community consisting of 26 residential rental units & associated site improvements including drives, parking, stormwater management, on-site septic and water supply

Burn opened the Continued Hearing under the provisions of the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw.

Steve Ventresca of Nitsch Engineering was present to provide a detailed overview of the recently completed draft Peer Review of the Notice of Intent. Engineer Mark Beaudry of Meridian Associates and Toby Kramer of NOAH were also present. Ventresca cited the following comments that were included in the Peer Review: 1.) relative to the wetland disturbance that will occur along cart path in order to provide access to Lot 4, a recommendation was made for requiring a restoration ratio of 2 to 1 vs. the standard DEP requirement of a 1 to 1 ratio; 2.) the stream along South Street was originally listed as perennial then deemed intermittent; the final determination it is still somewhat unclear and should be clarified; 3.) Priority Habitat on site has been verified with the exception of a second vernal pool that was found on the site since the ORAD was issued, and being that the Plan includes work within 100' of the pool, the pool should be located on the Plan and the applicant should follow up with NHESP to determine the impact the pool may have on the layout of the project; 4.) once the location of the public water supply well is determined, it should be confirmed that it is in compliance with the requirements of the CR; 5.) a full technical review of the proposed Stormwater Management Plan was completed and was found to be generally acceptable in terms of meeting DEP standards, with the exception of a few recommendations contained in the peer review document; 6.) based on a condition contained in the ORAD, the wetland boundaries must be refreshed prior to construction.

At the conclusion of Ventresca's summary, Beaudry stated that they are presently working on addressing Nitsch's comments and confirmed that they had recently confirmed the wetlands within 200 feet of any proposed work area. The discussion was then opened for questions and comments. Brownrigg inquired about the status of the delineation of the Spencer Brook Riverfront Area. Beaudry reported that Mason Associates was out there within the last week and, although the marsh area is still flooded, they were able to determine the flow vs. no flow classification area and to establish the beginning of the Riverfront Area. According to Beaudry, the recently established lines are quite close to the preliminary lines they established when the area was under ice. Mason is recommending using the GPS data recently obtained in the field vs. utilizing typical survey methods.

Relative to the a final determination of the classification of the stream along South Street, Beaudry referred to the affidavit provided to the Commission by Mr. Jeffrey Kiel in February through which they were able to demonstrate in accordance with the regulations that the stream was dry for four days in a non-drought period. He noted that although they had included the USGS Stream Stat data as further supplemental evidence, they did not rely on them in making their final determination.

Since the Commission had previously accepted the evidence contained in the affidavit, Beaudry stated that the final step was for the Commission to determine whether they believed that information was from a competent source. He acknowledged that people have made arguments that it is in Mr. Kiel's interest to make this an intermittent stream, but said that this does not make him incompetent.

Ray Kubacki of 438 South Street, who had previously questioned the competency of Mr. Kiel's affidavit given that he has a direct interest as the landowner with the stream, stated that he had contacted the DEP for clarification on their definition of a "competent source" and found that there is the presumption in the law that you have a disinterested party. Beaudry countered that the same information presented to the Commission was also submitted to the DEP and received no comments. Kubacki said that although he knew the issue could be taken up on appeal, he asked the Commission if it wouldn't make more sense to have the determination made up front by an independent wetland scientist.

Attorney Greg Petersen of 63 Indian Hill who was also present for the hearing, reported having spent time reviewing the regulations relative to the use of the term competent and found that there is the presumption that each landowner is an expert with respect to their own property and that the regulations require that the information be submitted by someone with expertise, not necessarily someone who is disinterested. Petersen also pointed out the fact that the Commission had determined the stream to be intermittent in 2003 when the ORAD was issued and they have recently reconfirmed this determination using USGS Stream Stat data. Burn asked for the record whether Petersen had any vested interest in the filing. Petersen stated that he is a Trustee of the Affordable Housing Trust.

In response to Petersen's comments, Kubacki stated that it was his understanding that the primary evidence that is typically used in making such a determination is the observation data. He said that he found it astounding that the Commission would accept an observation from someone who may have a vested interest. Burn said that in the interest of time, he wanted to emphasize that from his point of view the interests of Commission are to make an accurate decision in this regard, and that regardless of the decision they make, it is obviously not going to please everybody. He explained that the Commission had to rely on competent witnesses because there was no other way of making the determination in a timely fashion otherwise, and although the abutter may have a vested interest, that doesn't disqualify him as a competent source.

Burn asked if there was anyone on the Commission who would advocate changing the decision that was previously reached regarding the status of the stream. Guarino stated that she was comfortable with the decision previously made in finding the stream to be intermittent, with Smith in agreement that the decision should not be changed. Hearing no other comments Burn stated, "We have publicly indicated that we consider the stream intermittent and will indicate so in our ultimate conditions".

Burn then raised the issue of determining the specific location of the public water supply well. He reported having recently had the opportunity to discuss the issues at hand with representatives of the BOS and the Housing Authority (HA), as it is in the interest of all parties to find the best location for the well as quickly as possible. It was confirmed that the HA preferred that the well be located so as to avoid encroachment upon other properties relative to Zone 1 and the Interim Wellhead Protection Area associated with the well, but "were not opposed to moving it if it is for a good reason". Burn asked Beaudry to confirm his recollection that Meriden had located the well in order to maintain the protection areas within the property, which he affirmed. Burn said he understood the requirement that the Zone 1 protection area be maintained on the property but questioned whether this was really an important criteria in terms of the IWPA. Beaudry said that the IWPA area is an encumbrance on someone else's property, creating a nitrogen sensitive area relative to Title V Wastewater Disposal. Relative to the requirements of the CR in terms of the well location, Burn said that there is the belief that the well could be moved further from the main field in order to avoid encumbering other activities within the Zone 1. In response to the Commission's obvious desire to find an alternative location, Beaudry then presented an exhibit with three potential locations for the well, all of which were further than 428 feet from the disposal system as recommended by the BOH at their recent meeting. The drawing illustrated where the protections would extend onto private property.

Guarino quoted a section contained in the Benfield CR as follows: "septic and wells shall be located to the maximum extent feasible so as to reduce any impact on conservation interests protected by this CR". She also noted that the Commission has seen many cases where an IWPA projects onto abutting properties. After a review of the options at hand, Burn said that it was in everyone's interest to finalize the location and let it be planned for and any one of the three is more likely to satisfy the BOH and is also congruent with the Commission's desire to move the well farther from the main part of the field. The Commission then made their preference known to the representative.

In conclusion, Burn stated that the ZBA had requested that all boards submit final comments with regard to the Comprehensive Permit Application by May 4, 2010. A draft response compiled by Willard was distributed, with Commission reviewing and finalizing seven Special Conditions they propose to be included in the permit.

The hearing was continued to May 13, 2010 at 8:30 p.m. at the applicant's request.

9:50 p.m. (DEP 125-0885) Notice of Intent

Applicant: Geoffrey Freeman, Clark Farm, LLC

Project Location: 185 Concord Street

Project Description: Installation of a well and removal of plant material

Burn opened the Hearing under the provisions of the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw. Property owner Geoffrey Freeman was present to discuss his proposal for the installation of a new water supply well approximately 51' from the BVW, with the proposed work being within the 100-foot Buffer Zone of a BVW. They propose using the existing two wells for irrigation. The project also proposes removal of invasive species in the area between WF 6 and the well closest to the intermittent stream, with all proposed removal work to be done by hand. With the details of the Plan including siltation control methods being found to be acceptable, *Smith moved to close the hearing for DEP #125-0885, Bush seconded and all attending voted in favor. Smith moved to issue a Standard Order of Conditions, Bush seconded and all attending voted in favor.*

House 3 Realty Trust, c/o Grant Wilson

Proposal to dredge drainage ditches and removal of invasive plants

Property Manager Rob West was present on behalf of the property owner. West reported that the drainage ditches along the agricultural fields had not been properly maintained over the last several years due to time constraints, and as a result, invasive species are getting out of control along the ditches. In addition, certain sections of the agricultural fields are becoming impassable for mowing due to insufficient drainage, which had also been maintained in the past. The maintenance work is being proposed under Chapter 61A, which West reported had been in place on this property since 1992.

When Burn asked West the purpose for his requesting the Commission's review of the work, West replied, "I would like to do this under our Chapter 61A status, but I didn't want to go out there and all of the sudden Sylvia comes running out trying to spank me". Willard assured West that this would not happen. She did state, however, that she had recently reviewed the WPA regulations relative to reconstruction of existing dikes and found that the property owner would be required to submit for review a Certified Farm Conservation Plan relative to the proposed work. West clarified that the proposed work is strictly maintenance, not reconstruction, and is permitted in accordance with 310 CMR 10.04 (b) "Normal maintenance of land in agricultural use". It was agreed that the proposed work could be undertaken with the stipulation that the volume of the flow in the ditches would not be increased.

10:30 p.m. Smith moved to adjourn, Bush seconded and all attending voted in favor.

Respectfully submitted,
Mary Hopkins
Administrative Assistant